IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.8952 OF 2005

Between:

J.Anil Kumar, S/o.J.Srinivasa Rao,

Aged about 46 years, Occu:Sr.Technician (AC),

O/o.Senior Section Engineer, Electrical (AC),

S.C. Railway, Secunderabad.

..... PETITIONER

AND

Union of India, rep. by the General Manager,

S.C. Railway, Rail Nilayam, Secunderabad,

And another.

....RESPONDENTS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION No.8952 OF 2005

O R D E R

(Per Sri Justice J.Chelameswar)

This writ petition is filed with a prayer as follows:

> **"To issue an order or direction, more particularly in the nature of WRIT OF CERTIORARI to call for the records in OA.No.125/2005 dt.15-4-2005 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and declare the same as contrary to law and unsustainable and call for the records of impugned proceedings dt.10.02.2005 issued by the 2nd respondent illegal, arbitrary, violative of principles of natural justice, fair play and justice and accordingly quash the same and pass ....."**

The writ petition was admitted on 21.04.2005 and interim stay of all further proceedings in pursuance of the proceedings No.CP/555/Qrs/PC.III, dated 10.02.2005 issued by the 2nd respondent was granted in WPMP No.11798 of 2005 on that date and hence, the 2nd respondent in the writ petition filed WVMP No.3068 of 2005 to vacate said interim stay.

When the matter is taken up, both the learned counsel agreed that writ petition can be disposed of at this stage itself.

The petitioner is working as Senior Technician (AC) in the South Central Railways, Secunderabad. By proceedings dated 12.01.1989 of the 2nd respondent, the petitioner was allotted Railway Quarter bearing No.485/2 Type-II at Chilkalaguda. Subsequently, by another proceedings dated 31.08.1989 of the 2nd respondent, the petitioner was permitted to share the above-mentioned quarter with one Sri Abdul Razack, Technician-III (AC), another employee of the respondent-Railways on some terms and conditions, which read as follows:

i) the said quarter will not remain vacant.

ii. **the allottee should collect rent for the sharer i.e. 50% of the assessed rent or 10% of the emoluments whichever is less.**

iii. **for any damage or loss for the fittings in the Qtrs. allottee will be held responsible for recovery of cost thereof.**

iv. **it is the responsibility of the allottee to get the quarters vacated in view of his transfer/retirement/demise etc.,"**

The 2nd respondent vide his memorandum dated 10.02.2005 purported to cancel the allotment of the quarter, referred to earlier, made in favour of the petitioner, on the ground that he had sub-let the said quarter to an outsider and the 2nd respondent also recorded therein that an amount of Rs.1,72,695/- should be recovered from the petitioner towards the 'damage rent'. Whatever that expression means, it is not our concern at this stage. Challenging the said proceedings dated 10.02.2005, the petitioner herein approached the Central Administrative Tribunal, Hyderabad Bench, in O.A.No.125 of 2005 principally on two grounds viz., (1) that the impugned order dated 10.02.2005 purports to state that the petitioner was allotted the Railway Quarter No.482/2 at Chilkalaguda and the same was sought to be cancelled, whereas as a matter of fact, the petitioner was never allotted the above-mentioned quarter, but allotted the quarter No.485/2 at Chilkalaguda, and (2) the very impugned proceedings dated 10.02.2005 was issued in violation of the principles of natural justice as the petitioner was never given any opportunity of meeting the charge of subletting levelled in the said proceedings. The official respondents filed counter.

Insofar as the dispute about the number of the quarter allotted to the petitioner is concerned, the respondents took a stand that it was an inadvertent mistake in drafting the order dated 10.02.2005 and the wrong quarter number was mentioned and in fact the petitioner was sought to be evicted from the quarter allotted to him i.e. Quarter No.485/2. Insofar as the 2nd objection of the petitioner is concerned, the respondents took a stand that there was a vigilance inspection on the quarter allotted to the petitioner on 19.01.2005 and during the inspection, it was found that the petitioner was not at all living in the quarter allotted to him and he was in fact found to be living in his own residence elsewhere in East Marredpally in Secunderabad. Further, it was found that the petitioner was collecting an amount of Rs.1,000/- per month from the occupant of the quarter i.e. Mr.Abdul Razack.

It is also the stand of the respondents in the counter that the above-mentioned facts were admitted by the petitioner in his signed statement made before the inspecting

officials of the Vigilance Department.

The petitioner submitted before the Tribunal that the above-mentioned vigilance report was never supplied to him before the impugned proceedings were issued. His grievance is that the statement purported to have been given by him before the Vigilance Authorities is a statement obtained under duress. The Tribunal dismissed the O.A. as one devoid of merits and hence the present writ petition.

The fact that the report of the vigilance authorities, which forms the basis of the order impugned was never supplied to the petitioner, is not in dispute. In the absence of supplying of such a document, which forms the very basis of the impugned proceedings, we are of the opinion that there was a clear violation of the principles of natural justice. We do not wish to express any opinion regarding the stand of the petitioner taken before the Tribunal that the statement said to have been made by the petitioner before the vigilance authorities was obtained under duress.

In the circumstances, the writ petition is allowed and the impugned orders dated 10.02.2005 are hereby set aside as violative of the principles of natural justice. However, in the background of the above-mentioned facts, it is open to the respondents to take such appropriate action, as they are advised, in accordance with law.

JUSTICE J.CHELAMESWAR

JUSTICE RAMESH RANGANATHAN

29TH NOVEMBER, 2005

PGS

THE HON'BLE MR JUSTICE

J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE

RAMESH RANGANATHAN

WRIT PETITION No.8952 OF 2005

(Per Sri Justice J.Chelameswar)

29th NOVEMBER, 2005